

REMARKS

The claims were subjected to restriction. Applicant herein elects Group I in part without traverse. Applicants elect Group I, directed to claims 53-70 and 77-91. Claims 1-52 were canceled previously, and claims 71-76, and 92-111 are canceled herein without prejudice and without acquiescence. Applicant reserves the right to pursue canceled material in subsequent prosecution.

The Examiner further restricts the claims to particular sequences. Applicants traverse this restriction, as it would not be an undue burden for the Examiner to search more than one sequence in this specific case. Applicants note in MPEP §803 that restriction is proper when the inventions are independent or distinct as claimed AND there must be a serious burden on the examiner to do the searches. Applicants consider for this particular case having highly similar promoter sequences that the searches would not impart an undue burden for the Examiner and that the election is wholly unfair. This is particularly true for this case, given the analogous instances wherein a partial waiver of 37 CFR §1.141 is proper for highly related nucleotide sequences, as described in MPEP §803.04.

Nevertheless, to ensure that this submission is responsive, Applicants elect the nucleic acid species of SEQ ID NO:1 and the amino acid species of SEQ ID NO:2.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02428US0 from which the undersigned is authorized to draw.

Dated: January 30, 2006

Respectfully submitted,

By 

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